

that the injuries complained of were caused by the negligence of the defendants in placing the mound of earth on the sidewalk and leaving it there, "thus rendering the said sidewalk unsafe for travel by pedestrians." The plaintiff served a jury notice; and the defendants moved to strike it out. The Master said that he was unable to agree with the argument that the present case was distinguishable from *Brown v. City of Toronto*, 21 O.L.R. 230. There it was said by Riddell, J., at p. 238, in reference to *Clemens v. Town of Berlin*, 7 O.L.R. 33: "If a plaintiff can make out a case of wrong-doing on the part of a municipality irrespective of their duty, common law and statutory, as to highways, and allege a cause of action not based upon nonrepair of the highways, he may be entitled to hold his jury notice. At all events, the case has no application here, where the injury is undoubtedly due to a defect in the highway itself." This, the Master said, was conclusive; and the jury notice must be struck out, with costs to the defendants in any event. C. M. Colquhoun, for the defendants. Irving S. Fairty, for the plaintiff.

RICKERT v. BRITTON—MASTER IN CHAMBERS—APRIL 11.

Security for Costs—Plaintiffs Residing out of Ontario—Action by Unincorporated Association and Members—Class Action—Addition as Plaintiff of Member Residing in Ontario.]
—Motion by the plaintiffs to set aside a præcipe order for security for costs. The action was brought by the president and eight other officials of the United Garment Workers of America, on behalf of themselves and all other members of the union, and by the union, to restrain the defendants from using the plaintiffs' trade mark. The named plaintiffs were all resident in New York—but many members of the union resided and carried on business in Ontario, and particularly at London, where the defendants resided and carried on business. On the first return of the motion, an order was made allowing the plaintiffs to amend by adding as a plaintiff A. H. Carroll, another officer of this union, who resided at London. Afterwards, the defendants obtained leave to have the matter further discussed, it having been made to appear that Carroll had not any property in the province exigible under execution. The Master said that, as a member of the union, Carroll, no doubt, had an interest in the action; and it was not the case of a merely nominal plaintiff lending his name to enable others, who were the real actors,